

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 949

Introduced by Assembly Member Krekorian

February 22, 2007

An act to add Sections 1569.682 and 1569.683 to the Health and Safety Code, relating to long-term health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 949, as amended, Krekorian. ~~Long-term health care facility residents.~~ *Residential care facilities for the elderly: resident transfers.*

Existing law provides for the licensure and regulation of ~~health facilities by the State Department of Health Services, including long-term health care facilities~~ *residential care facilities for the elderly, as defined, by the State Department of Social Services. Under existing law, a violation of any of these provisions is punishable as a misdemeanor.*

~~Effective July 1, 2007, responsibility for the administration of the above-mentioned provisions will be transferred to the State Department of Public Health.~~

~~This bill would state the intent of the Legislature to enact subsequent legislation that would provide financial and psychosocial relief for senior citizens who are displaced by the closure of long-term health care facilities~~ *require a licensed residential care facility for the elderly, prior to transferring a resident to another facility or to an independent living arrangement as a result of the forfeiture of a license, or a change in the use of the facility to another licensed facility or to an independent living arrangement, to take all reasonable steps to transfer affected residents safely, and minimize possible trauma by taking specified*

actions relating to resident notification and transfer and relocation planning, as prescribed. The bill would require a facility, if 7 or more residents of the facility will be transferred as a result of the forfeiture of a license or the change of use of a facility, to submit a proposed relocation plan for the affected residents to the department for review, and would require the department to approve, modify, or disapprove the plan.

The bill would also require the department to annually prepare and submit to the relevant legislative policy committees a report on the number of residential care facilities for the elderly that transfer residents of the facility in accordance with the requirements of the bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1569.682 is added to the Health and
- 2 Safety Code, to read:
- 3 1569.682. (a) A licensed residential care facility for the elderly
- 4 shall, prior to transferring a resident of the facility to another
- 5 facility or to an independent living arrangement as a result of the
- 6 forfeiture of a license, as described in subdivision (a), (b), or (f)
- 7 of Section 1569.19 or change of use of the facility pursuant to
- 8 paragraph (5) of subdivision (a) of Section 87589 of Title 22 of
- 9 the California Code of Regulations, take all reasonable steps to
- 10 transfer affected residents safely and to minimize possible transfer
- 11 trauma, and shall, at a minimum, do all of the following:
- 12 (1) Prepare an evaluation of the relocation needs of each
- 13 resident to be transferred, which shall include consideration of
- 14 the proximity to the resident's responsible person and a
- 15 determination of the most appropriate and available type of future
- 16 care and services for the resident. The evaluation shall be
- 17 completed prior to giving written notice of transfer to the resident
- 18 or his or her legal representative, and shall also include a

1 *recommendation regarding the type of facility that would best meet*
2 *the resident's needs, and a list of facilities that are available and*
3 *adequate to meet the resident's needs.*

4 *(2) Discuss the relocation evaluation with the resident or his*
5 *or her legal representative within 30 days of providing the written*
6 *notice as required by subdivision (b), and include a copy of the*
7 *relocation evaluation in the resident's records for transfer. If the*
8 *resident or his or her legal representative chooses to make a*
9 *transfer prior to completion of the relocation evaluation, the*
10 *residential care facility for the elderly shall inform the resident or*
11 *his or her legal representative, in writing, of the facility's*
12 *obligation to provide a relocation evaluation.*

13 *(3) Rebate to the resident or his or her legal representative a*
14 *proportional per diem amount of any prepaid monthly fees, if the*
15 *resident leaves the residential care facility for the elderly before*
16 *the end of the month for which fees have been prepaid. This rebate*
17 *shall be paid no later than the day the resident leaves the*
18 *residential care facility for the elderly.*

19 *(4) Pay a relocation fee of two thousand five hundred dollars*
20 *(\$2,500) to each resident living at the facility at the time that the*
21 *written notice of transfer described in subdivision (b) is given,*
22 *within 10 days of service of the written notice of transfer, if the*
23 *resident is required to transfer to a new facility or another*
24 *independent living arrangement.*

25 *(b) Prior to transferring a resident, the facility shall give written*
26 *notice to each affected resident or his or her legal representative*
27 *at least 90 days in advance of the transfer, stating the specific*
28 *reason or reasons for the transfer, and advising the resident or*
29 *his or her legal representative of the intended transfer in*
30 *accordance with the requirements in subdivision (a). The notice*
31 *shall also include a written relocation evaluation for each affected*
32 *resident prepared pursuant to paragraph (1) of subdivision (a). If*
33 *the transfer is made pursuant to subdivision (d), the notice shall*
34 *inform the resident or his or her legal representative that the*
35 *approved relocation plan is available to the resident or his or her*
36 *legal representative free of charge, upon request.*

37 *(c) If seven or more residents of a residential care facility for*
38 *the elderly will be transferred as a result of the forfeiture of a*
39 *license or change in the use of a residential care facility for the*
40 *elderly pursuant to subdivision (a), the facility shall submit a*

1 *proposed relocation plan for all of the affected residents to the*
2 *department for approval. The department shall have the authority*
3 *to approve, disapprove, or modify the relocation plan in*
4 *accordance with the following requirements:*

5 *(1) Upon submission of the relocation plan, the residential care*
6 *facility for the elderly shall be prohibited from accepting new*
7 *residents and entering into new admission agreements for new*
8 *residents.*

9 *(2) The relocation plan shall provide for implementation of the*
10 *relocation services described in subdivision (a), and shall describe*
11 *the availability of beds and other residential care facilities for the*
12 *elderly in the area for residents to be transferred, and the proposed*
13 *discharge process, and shall include a listing of community*
14 *resources, and a description of the staff available to assist in the*
15 *transfers.*

16 *(3) The department shall approve or disapprove the relocation*
17 *plan prepared pursuant to this subdivision, and, if the department*
18 *approves the plan, it shall become effective upon the date the*
19 *department grants its written approval of the plan.*

20 *(4) If the department disapproves a relocation plan, the*
21 *residential care facility for the elderly may resubmit an amended*
22 *plan, which the department shall promptly either approve or*
23 *disapprove, within 10 working days of receipt by the department*
24 *of the amended plan. If the department fails to approve a relocation*
25 *plan, it shall inform the facility, in writing, of the reasons for the*
26 *disapproval of the plan.*

27 *(5) Until such time that the department has approved a*
28 *residential care facility for the elderly's relocation plan, the facility*
29 *shall not issue a notice of transfer or require any resident to*
30 *transfer.*

31 *(6) The residential care facility for the elderly shall also submit*
32 *a copy of the relocation plan to the local ombudsman for the facility*
33 *at the same time the plan is submitted or resubmitted to the*
34 *department, and shall submit to both the department and the local*
35 *ombudsman a final list of names and new locations of all residents*
36 *who are relocated.*

37 *(d) (1) If a residential care facility for the elderly fails to*
38 *provide the relocation services required by subdivisions (a) and*
39 *(b), and, if the director determines that it is necessary to protect*
40 *the residents of a facility from physical or mental abuse,*

1 *abandonment, or any other substantial threat to health or safety,*
2 *the department shall take any necessary action to minimize trauma*
3 *for the residents. The department shall contact any local agency*
4 *that may have placement or advocacy responsibility for the*
5 *residents, and shall work with those agencies to locate alternative*
6 *placement sites, and contact relatives or other persons responsible*
7 *for the care of these residents. The department shall use physicians*
8 *and other medical or long-term care professionals deemed*
9 *appropriate by the department to provide onsite evaluation of the*
10 *residents and to assist in the transfer of residents.*

11 *(2) The department's participation in the relocation of residents*
12 *from a residential care facility for the elderly shall not relieve the*
13 *facility of any responsibility under this section. A residential care*
14 *facility for the elderly that fails to comply with the requirements*
15 *of this section shall be required to reimburse the department for*
16 *the cost of providing the relocation services. If the facility fails to*
17 *provide the relocation services required in subdivisions (a) and*
18 *(b), and the department is not able to arrange for the provision of*
19 *those services required by those subdivisions, then the department*
20 *shall request that the Attorney General's office, the city attorney's*
21 *office, or the local district attorney's office seek injunctive relief*
22 *and damages in the same manner as provided for in Chapter 5*
23 *(commencing with Section 17200) of Part 2 of Division 7 of the*
24 *Business and Professions Code.*

25 *(e) Any person, firm, partnership or corporation who owns,*
26 *operates, establishes, manages conducts, or maintains a residential*
27 *care facility for the elderly who fails to comply with the*
28 *requirements of this section shall be liable for the imposition of*
29 *civil penalties in the amount of one hundred dollars (\$100) per*
30 *resident per day for each day that the facility is in violation of this*
31 *section, until such time that the violation has been corrected.*

32 *(f) A resident of a residential care facility for the elderly covered*
33 *under this section, may bring a civil action against any person,*
34 *firm, partnership or corporation who owns, operates, establishes,*
35 *manages, conducts, or maintains a residential care facility for the*
36 *elderly who violates the rights of a resident, as set forth in this*
37 *section. Any person, firm, partnership or corporation who owns,*
38 *operates, establishes, manages, conducts, or maintains a*
39 *residential care facility for the elderly who violates this section*
40 *shall be responsible for the acts of the facility's employees and*

1 *shall be liable for costs and attorney fees. Any such residential*
2 *care facility for the elderly may also be enjoined from permitting*
3 *the violation to continue. The remedies specified in this section*
4 *shall be in addition to any other remedy provided by law.*

5 *(h) This section does not apply to a facility that has obtained a*
6 *certificate of authority to offer continuing care contracts, as defined*
7 *in paragraph (8) of subdivision (c) of Section 1771.*

8 *SEC. 2. Section 1569.683 is added to the Health and Safety*
9 *Code, to read:*

10 *1569.683. The department shall annually prepare and submit*
11 *to the relevant policy committees of the Legislature a report on*
12 *the number of residential care facilities for the elderly that transfer*
13 *residents of the facility in accordance with the requirements of*
14 *Section 1569.682.*

15 *SEC. 3. No reimbursement is required by this act pursuant to*
16 *Section 6 of Article XIII B of the California Constitution because*
17 *the only costs that may be incurred by a local agency or school*
18 *district will be incurred because this act creates a new crime or*
19 *infraction, eliminates a crime or infraction, or changes the penalty*
20 *for a crime or infraction, within the meaning of Section 17556 of*
21 *the Government Code, or changes the definition of a crime within*
22 *the meaning of Section 6 of Article XIII B of the California*
23 *Constitution.*

24 ~~SECTION 1. It is the intent of the Legislature to enact~~
25 ~~subsequent legislation that would provide financial and~~
26 ~~psychosocial relief for senior citizens who are displaced by the~~
27 ~~closure of long-term health care facilities.~~